

REMARKS

Claim 1 has been amended to improve the clarity of the claimed subject matter and to bring the claims into conformity with U.S. practice and format, and to place the application fully in condition for allowance. All of the amendments are fully supported by the original disclosure of this application and therefore do not constitute the introduction of any new matter into this case.

The specification has been amended to correct typographical errors with regard to the reference numbers for the spring and the USB plug. No new matter has been entered.

Applicant has not yet received an indication from the Examiner as to the acceptability of the originally filed drawings and requests such indication in the next Official Action, in the absence of which it is assumed that the original drawings are acceptable.

Claim 1 remains pending upon entry of the amendments to the claims above.

Claim Rejections under 35 U.S.C. § 103

Claim 1 is rejected under 35 USC 103 as being unpatentable over Applicant's admitted prior art (APA) in view of U.S. 2004/0080989 (Yu). Applicant respectfully traverses this rejection.

Applicant most respectfully wishes to direct the Examiner's attention to the basic requirements of a prima facie case of obviousness as set forth in the MPEP. MPEP § 2143 states that to establish a prima facie case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teachings of the reference. Second, there must be a reasonable expectation of success for the modification. Finally, the

prior art reference (or references when combined) must teach or suggest all the claim limitations.

Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP § 2143.03 states that all claimed limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art". *In re Wilson* 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *In re Fine* 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Claim 1 has been amended to positively recite that the screw pillar (32) is detachably and threadedly secured to the lower pen shaft (1) to permit the replacement of the refill (4), as illustrated in Figures 3 and 4.

With regard to the rejection of original claim 1, the Examiner indicated that Applicant's admitted prior art of Figure 2 illustrated a spring equatable to that illustrated in Figures 3 and 4 of the application. Applicant's admitted prior art of Figure 2 does not disclose such a spring, nor does it disclose the claimed lower pen housing (3) and a screw pillar (32) that is detachably and threadably secured to the lower pen shaft (1) to permit the replacement of the refill (4).

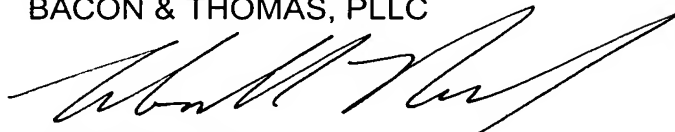
The modification of Applicant's admitted prior art of Figure 2 according to the teachings of Yu (Figures 5A and 5B) will not result in the claimed invention, as stated above. The resulting device of the combination of Applicant's admitted prior art of Figure 2 according to the teachings of Yu, does not teach, disclose or suggest all of the claimed elements of claim 1, as presently amended, and the resulting device will not permit the ready replacement of the refill, unlike the claimed device.

Application No.: 10/614,094
Amendment dated: August 31, 2004
Reply to Office Action of: June 16, 2004

In view of the amendments to claim 1 and the remarks above, withdrawal of this rejection is respectfully requested.

In summary, it is respectfully submitted that none of the prior art individually or collectively shows the invention as claimed. Accordingly, withdrawal of the rejection of the claims appears to be warranted and the same is respectfully requested. In the event there are any outstanding matters remaining in the present application which can be resolved by a telephone call or facsimile communication to Applicant's Attorney, the Examiner is invited to contact the undersigned by telephone or facsimile at the numbers provided below.

Respectfully submitted,
BACON & THOMAS, PLLC



WONKI K. PARK
Attorney for Applicant
Registration No. 38,991

Date: August 31, 2004

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314
Telephone: 703-683-0500
Facsimile: 703-683-1080

WP/jrs

S:\Producer\wp\CHAO 614094\amendment.wpd